

LEWIS
AND
ROCA
LLP
LAWYERS

E-Filed on 3/1/07

1 3993 Howard Hughes Parkway, Suite 600
 Las Vegas, NV 89169-5996
 2 Facsimile (702) 949-8321
 Telephone (702) 949-8320

3 Susan M. Freeman AZ State Bar No. 004199
 Email: sfreeman@lrlaw.com
 Rob Charles NV State Bar No. 006593
 Email: rcharles@lrlaw.com

4 Attorneys for Official Committee of Unsecured Creditors
 for USA Commercial Mortgage Company

6 **UNITED STATES BANKRUPTCY COURT
 7 DISTRICT OF NEVADA**

In re:

8 USA COMMERCIAL MORTGAGE
 9 COMPANY,

10 USA CAPITAL REALTY ADVISORS,
 LLC,

11 USA CAPITAL DIVERSIFIED TRUST
 DEED FUND, LLC,

12 USA CAPITAL FIRST TRUST DEED
 FUND, LLC,

13 USA SECURITIES, LLC, Debtors.

16 Affects:

- 17 All Debtors
 - 18 .. USA Commercial Mortgage Company
 - 18 .. USA Capital Realty Advisors, LLC
 - 18 .. USA Capital Diversified Trust Deed Fund, LLC
 - 18 .. USA Capital First Trust Deed Fund, LLC
 - 18 .. USA Securities, LLC

Case No. BK-S-06-10725-LBR
 Case No. BK-S-06-10726-LBR
 Case No. BK-S-06-10727-LBR
 Case No. BK-S-06-10728-LBR
 Case No. BK-S-06-10729-LBR

CHAPTER 11

Jointly Administered Under Case No.
 BK-S-06-10725 LBR

**MOTION FOR ORDER REQUIRING
 PIERCY, BOWLER, TAYLOR &
 KERN PC TO PRODUCE
 DOCUMENTS AND CUSTODIAN
 OF DOCUMENTS AND
 CORPORATE REPRESENTATIVE
 FOR EXAMINATION PURSUANT
 TO FEDERAL RULE OF
 BANKRUPTCY PROCEDURE 2004**

[No hearing required]

Pursuant to Federal Rule of Bankruptcy Procedure 2004, the Official Committee of Unsecured Creditors of USA Commercial Mortgage Company (“UCC” or the “Movant”)¹ hereby moves this Court for an order requiring Piercy, Bowler, Taylor & Kern PC (“Piercy Bowler”):

26 ¹ Upon the effective date of the Joint Plan of Reorganization (the “Plan”), the UCC will cease to exist and the USACM Liquidating Trust will be substituted in for the UCC as to this Motion.

LEWIS
AND
ROCA
LLP
LAWYERS

- 1 1. To produce the documents requested in the attached Exhibit "A" for
2 inspection and copying by the Movant not more than fourteen (14) calendar
3 days after the date served by subpoena pursuant to Federal Rule of
4 Bankruptcy Procedure 9016, or by such other mutually agreeable date (the
5 "Production Date");
6
7 2. To produce its custodian of documents for examination at the law offices of
8 Lewis and Roca, LLP, 3993 Howard Hughes Parkway, Suite 600, Las
9 Vegas, Nevada 89169, beginning at 10:00 a.m. prevailing Pacific Time on a
10 business day no later than five (5) business days after the Production Date,
11 or at such other mutually agreeable location, date, and time, and continuing
12 from day to day thereafter until completed; and
13
14 3. To designate a corporate representative² to appear for examination at the law
15 offices of Lewis and Roca, LLP, 3993 Howard Hughes Parkway, Suite 600,
16 Las Vegas, Nevada 89169, beginning at 10:00 a.m. prevailing Pacific Time
17 on a business day no later than April 30, 2007, or at such other mutually
18 agreeable location, date, and time, and continuing from day to day thereafter
19 until completed.

20 This Motion is further explained in the following Memorandum.

Memorandum

21 The Movant seeks information concerning the financial audits, reviews, and other
22 services performed by Piercy Bowler on behalf of USACM, the other debtors in the
23 above-captioned cases (together with USACM, the "Debtors"), and the Debtors' affiliates,
24 subsidiaries, parents, or otherwise related entities. The Movant seeks this information to
25 assist in the collection of the assets and the investigation of the liabilities of the Debtors.

26 The requested discovery from Piercy Bowler is well within the scope of
27 examination permitted under Bankruptcy Rule 2004, which includes:

28 [t]he acts, conduct, or property or . . . the liabilities and financial condition
29 of the debtor, or ... any matter which may affect the administration of the

26 ² Movant shall provide a list of specific examination topics to Piercy Bowler in a subpoena served pursuant
27 to Federal Rule of Bankruptcy Procedure 9016.

LEWIS
AND
ROCA
LLP
LAWYERS

1 debtor's estate, or to the debtor's right to a discharge. In a . . .
 2 reorganization case under chapter 11 of the Code, . . . the examination may
 3 also relate to the operation of any business and the desirability of its
 4 continuance, the source of any money or property acquired or to be acquired
 by the debtor for purposes of consummating a plan and the consideration
 given or offered therefore, and any other matter relevant to the case or to the
 formulation of a plan.³

5 **Conclusion**

7 Accordingly, the Movant requests that this Court enter the form of order submitted
 8 with this Motion.

9 Dated: March 1, 2007.

10 **LEWIS AND ROCA LLP**

12 By /s/ RC (#006593)

13 Susan M. Freeman, AZ 4199 (pro hac vice)
 Rob Charles, NV 6593

14 *Attorneys for Official Unsecured Creditors' Committee
 15 for USA Commercial Mortgage Company*
 -and-

16 **DIAMOND MCCARTHY TAYLOR FINLEY & LEE
 17 LLP**

18 By: /s/ Eric D. Madden (pro hac vice)

19 Allan B. Diamond, TX 05801800 (pro hac vice)
 William T. Reid, IV, TX 00788817 (pro hac vice)
 Eric D. Madden, TX 24013079 (pro hac vice)
 1201 Elm Street, 34th Floor
 Dallas, Texas 75270

20 *Special Litigation Counsel for Official Committee of
 21 Unsecured Creditors of USA Commercial Mortgage
 22 Company*

23
 24
 25
 26 ³ FED. R. BANKR. P. 2004(b).